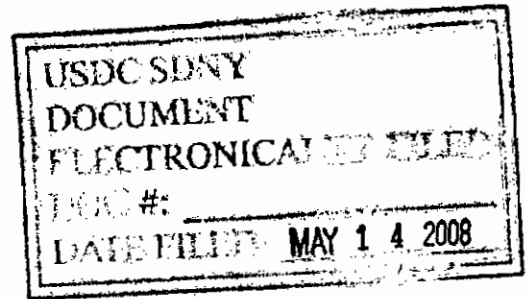


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
RHP MASTER FUND, LTD.,

Plaintiff,

-v-

No.08 Civ.4281 (LTS)(HBP)

CELL THERAPEUTICS, et al.,

Defendants.  
-----X

**ORDER**

WHEREAS, this action was commenced by the filing of a Complaint on May 6, 2008;  
and

WHEREAS, the Court has reviewed such Complaint to ascertain the basis for  
assertion of subject matter jurisdiction in this court; and

WHEREAS, such Complaint asserts that the Court has jurisdiction based on diversity  
of citizenship (28 U.S.C. § 1332), but where one party is a limited liability company (LLC), the  
LLC's citizenship is the same as that of each member, Strother v. Harte, 171 F. Supp. 2d 203, 205  
(S.D.N.Y. 2001); and

WHEREAS, diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) requires a  
demonstration that the action is between citizens of different states and, with respect to the individual  
defendants, the Complaint alleges merely where each individual resides.

WHEREAS, "subject matter jurisdiction is an unwaivable *sine qua non* for the  
exercise of federal judicial power," E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925,  
929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure  
provides that "If the court determines at any time that it lacks subject-matter jurisdiction, the court  
must dismiss the action;" it is hereby

ORDERED, that plaintiff shall, no later than **May 20, 2008**, file and serve a Supplement to the Complaint containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction.

Dated: New York, New York  
May 14, 2008

A handwritten signature in black ink, appearing to read 'Laura Taylor Swain', is written over a horizontal line.

LAURA TAYLOR SWAIN  
United States District Judge